

Senator William Stouffer, Chairman
Senator Victor Callahan
Steve Reintjes, MD
John Stanley, MD
David Carpenter



Representative Robert Schaaf, MD
Representative Curt Dougherty
Lancer Gates, DO
Gloria Solis, RN, MSN, MBA
John M. Huff, Director, DIFP

Health Care Stabilization Fund Feasibility Board

Minutes for the November 13, 2009 Meeting

Board Members Participating:

Senator Stouffer
Senator Callahan
Representative Dougherty
Representative Schaaf
Dr. Reintjes
Dr. Gates
DIFP Director John M. Huff

Also in attendance:

Brent Kabler, DIFP
Mark Doerner, DIFP
Tom Shearon, Preferred Physicians Medical RRG
Jeanie Botkin of Polsinelli Shugart, representing Missouri Professionals Mutual
Tom Redel, Aon Risk Services

Sen. Stouffer called the meeting to order at approximately 12:30 p.m. He called for the approval of the minutes of the prior meeting, which motion was seconded and the minutes were approved.

Next, Mark Doerner of the Department of Insurance, Financial Institutions and Professional Registration (DIFP) discussed the draft of the data call that had been circulated for comment among insurance companies. The goal of the data call is to collect premium, loss and exposure information for a ten-year period between 1997 and 2008. The most common comment to the draft by insurance companies was that the data call should be extended to surplus lines companies, which he indicated made up \$27 million of Missouri's current \$140 million dollar medical malpractice insurance market.

Brent Kabler briefly discussed the specifics of the data call. Because the data call asks for extremely detailed information, some of which insurance companies will consider highly sensitive, the data call is designed to keep such information confidential by aggregating the information on an industry-wide basis such that no individual claim information will be made public.

Next, Jeanie Botkin representing Missouri Professionals Mutual Insurance Company, (MPM) a Missouri Chapter 383 mutual and currently the largest writer of medical

malpractice insurance in Missouri, spoke about her client's concern that the data call produce consistent, credible data. She asked that the Board consider requesting the data in several of the data sets of the data call on a claim-by-claim basis, as opposed to aggregating the information. She also pointed out that, in addition to traditional insurance companies, 383 companies and surplus lines insurers, there are also federally chartered risk retention groups (RRGs) and self insurers (such as self-insured hospitals) that represent significant segments of the market. MPM's concern was that as broad a cross-section of the market as possible be sampled in the data call. She indicated that their concerns about the confidentiality of the data were satisfied so long as company-specific information never left the Department, but that insurers would appreciate seeing the aggregated, industry-wide data in return for their efforts at compiling and reporting the information in response to the data call. One problem for companies responding to the data call might be that the current response deadline (February 28, 2010) means that the insurance company personnel will have to work on the data call at the same time they are putting together the annual statement information required by the National Association of Insurance Commissioners (NAIC). Finally, she wondered whether the data collected would be used for purposes other than in helping the Board reach its conclusions, such as in reviewing rate filings. Dr. Reintjes said that one of goals is to have premium rates related to the underlying risk, and that better data will assist this.

Tom Shearon provided the perspective of the RRG community, which tends to be highly focused on particular niches of the market, (in his company's case, anesthesiologists); he suggested that RRGs should be encouraged to come into the state to serve particular medical specialties, but that complex data calls such as the one proposed discourage this. He also said that various state reports in recent years have pointed out that there is currently no availability and affordability problem in Missouri as it relates to medical malpractice insurance, and as such, there is really no justification for setting up a stabilization fund. Also, there will be problems with a retrospective data call because some of the major writers of the insurance in the years of the data call have gone out of business and will be unable to respond. He recommended that the Board review the report written by MPM that analyzed the various state funds across the country.

Senator Stouffer responded that we need the data from the data call in order to determine if a stabilization fund needs to be set up in Missouri on a regional, as opposed to a state-wide basis. In addition, data will allow companies to price their products appropriately. Brent Kabler also indicated that collecting the data retrospectively was helpful because it would provide a larger pool of information, which increases the statistical credibility of the analysis. Mr. Shearon pointed out that some companies like his simply do not capture some of the information sought in the data call. Brent Kabler responded that circulating the draft data call was designed to elicit such information.

Dr. Reintjes said that in the last crisis in Missouri, neurosurgeons crossed the state line into Kansas because they found the insurance coverage there to be half the cost of what it was in Missouri. Ideally, we should try to achieve the same costs in Missouri, whether that be through better data, a stabilization fund or changes to the tort laws.

Sen. Callahan urged the Department to talk to insurers about what data they collect and what is needed and useful for purposes of setting appropriate insurance rates. Brent Kabler indicated the data being collected in the data call is designed to try to answer the questions faced by the Board.

Sen. Stouffer brought up the legislation on amending sections 383.105 and 383.106, RSMo, to collect such information on a going-forward basis. The Department and Ms. Botkin on behalf of MPM indicated that they were in general agreement on the data provisions. MPM was not in agreement with other provisions, such as those on the Joint Underwriting Association. Sen. Callahan suggested we work on introducing the compromise language.

FINAL APPROVED